

EXHIBIT J

PART 3

1 Q. Did it appear to have the basic
2 features that you would expect to be on a two palm
3 pedestal?

4 A. Yes.

5 Q. On page 3 of your report, sir, would
6 you agree that the commentary in ANSI is not part
7 of the ANSI standard?

8 MR. ROBINSON: I'll object to the
9 form of the question.

10 A. Yeah. What do you mean by
11 "commentary"?

12 Q. Well, there's the ANSI standard and
13 then there are commentaries or illustrations onto
14 the side; am I correct?

15 A. If you're referring to the
16 two-column format that's found in B 11.3, the
17 left-side column is the requirements of the
18 standard and the right-side column is explanatory
19 information.

20 Q. Okay. Would you agree that
21 explanatory information that is found in the right
22 column has not been voted on or approved by the
23 committee that drafted the standard?

24 A. No.

1 Q. Would you explain to me how
2 information gets to the commentary as opposed to
3 incorporated in the standard?

4 A. The committee writes both and agrees
5 upon both.

6 Q. Is it your testimony today that you
7 have the same consensus with regard to the
8 standard that you do the commentary?

9 A. The committee, yes.

10 Q. So the committee approves both the
11 standard and the same margin of approval is
12 achieved by the committee for the commentary?

13 A. Yes.

14 Q. Why is it, then, that the standard
15 prefaces itself by saying that the commentary are
16 basically for illustrative purposes only and not
17 part of the standard itself?

18 A. Because that's what it is.

19 Q. What does the committee expect
20 individuals who are reviewing the commentary --
21 Strike that.

22 Is there an understanding by the
23 committee who drafts the standard as to how the
24 commentary will be utilized by the public?

1 A. Yes.

2 Q. And what is that understanding?

3 A. It's an expectation that the
4 right-side language helps the reader understand
5 what might be technically difficult to understand
6 on the left side. It provides suggestions for
7 compliance or meeting the requirements of the
8 standard, which is on the opposite side, opposite
9 paragraph on the left side. It gives the
10 standards writers an opportunity to explain
11 themselves.

12 Q. Is it meant to be all-inclusive, is
13 the commentary meant to be all-inclusive or is it
14 just merely an example of a typical type of
15 device?

16 A. The latter.

17 MR. ROBINSON: Excuse me.
18 Objection to the form.

19 Q. So it's meant to give an example of
20 a particular standard and what it's speaking to?

21 MR. ROBINSON: Same objection.

22 A. Not of a standard, but it's intended
23 to give an example of a particular methodology or
24 practice which might help the user comply with the

1 requirements that are found on the left side.

2 Q. Have you seen the drawing of a
3 shielded foot pedal in conjunction with the ANSI B
4 11.3 standard?

5 A. Yes, I have.

6 Q. Okay. To the best of your
7 knowledge, would a drawing that had a shielded
8 foot control with a gate also be an example as to
9 what the ANSI standard is seeking as it relates to
10 foot controls?

11 MR. ROBINSON: Objection to the
12 form.

13 A. Well, it could be, but there's never
14 been one illustrated in the B 11.3 standard.

15 Q. There is one illustrated in the same
16 language on the B 11.1 standard, though; am I
17 correct?

18 MR. ROBINSON: Objection to the
19 form.

20 A. You might have to direct me to a
21 particular revision of that B 11.1 standard for
22 that purpose.

23 Q. The most recent. Mr. Switalski
24 testified that the most recent B 11.1 standard has

1 a gated foot control as an illustration of a
2 properly protected foot control.

3 A. That would be the 2000 version?

4 Q. Yes.

5 MR. ROBINSON: I'll object to the
6 form of the question. I'm not sure there is a
7 question pending actually.

8 Q. Am I correct?

9 A. I believe so.

10 Q. Okay. And the language as far as
11 what the B 11.1 foot standard is requesting to be
12 included on a foot control is the same as the B
13 11.3 language; am I correct?

14 A. I don't understand that question.

15 Q. Are you familiar with the B 11.1
16 standard as it relates to properly -- what a foot
17 control -- what features a foot control should
18 have on it?

19 A. Somewhat, yes.

20 Q. Okay. Would you agree that the B
21 11.1 standard as it describes the features that a
22 foot control should have on it in use in
23 conjunction with a punch press is the same
24 language found in B 11.3, foot controls for press

1 brakes?

2 MR. ROBINSON: Objection to the
3 form.

4 A. That's possible. I've not made a
5 word-by-word comparison to the two, though.

6 Q. Okay. Today can you tell me -- Do
7 you have any reason why the B 11.1 foot control
8 illustration is different than the B 11.3
9 illustration for foot controls?

10 A. No.

11 Q. You have no reason to know that?

12 A. Why it's different in B 11.1 as
13 compared to B 11.3?

14 Q. Right.

15 A. No.

16 Q. Does it surprise you that it's
17 different?

18 A. No.

19 MR. ROBINSON: Objection, objection
20 to the form.

21 Q. Would you expect it would be
22 different in B 11.1 as opposed to B 11.3?

23 A. No.

24 Q. Do you agree with the B 11.1

1 standard that a shielded and gated foot control is
2 a foot control that allows the operator of punch
3 presses to operate the machine safely?

4 MR. ROBINSON: Objection to the
5 form.

6 A. I don't agree or disagree. I don't
7 know that that language is in there.

8 Q. Do you agree that a shielded foot
9 control with a gate will serve to inhibit
10 accidental or inadvertent activation of the
11 machine?

12 A. No.

13 MR. ROBINSON: Objection, objection
14 to the form as well.

15 Q. You do not agree that it will
16 inhibit accidental or inadvertent activation?

17 A. That's correct.

18 Q. Why do you disagree with that
19 statement?

20 A. Because it encourages riding of the
21 foot switch, so -- which defeats the function of
22 the gate.

23 Q. Does it encourage riding of the foot
24 switch in every application?

1 A. Oh, I don't know that I would say
2 every application, but many applications.

3 Q. Does it encourage riding the foot
4 switch on every machine?

5 A. Same answer.

6 Q. Do you know today whether or not a
7 gated foot control encourages riding the foot
8 pedal, riding the pedal, when used with a press
9 brake?

10 A. Yes.

11 Q. What information do you have that
12 allows you to make that opinion?

13 A. Thirty years of experience.

14 Q. What have you seen in 30 years that
15 allows you to make that opinion?

16 A. Seeing gated foot switches being
17 ridden by operators.

18 Q. You've seen open foot switches being
19 ridden as well?

20 A. Yes.

21 MR. ROBINSON: I'm sorry, I didn't
22 hear the question, I'm sorry.

23 Q. Okay. You've seen non gated foot
24 switches being ridden as well?

1 A. Those being those with the toe
2 releases, yes.

3 Q. You've seen those without the toe
4 releases that were not gated being ridden as well?

5 A. Did I say -- I don't believe I've
6 heard that question yet this morning.

7 MR. ROBINSON: Right. I'll object
8 to the form. It's argumentative.

9 MR. HARTMAN: That's fair.

10 MR. ROBINSON: It's assuming that
11 his prior comment was inconsistent with those when
12 it's not.

13 MR. HARTMAN: Okay.

14 BY MR. HARTMAN:

15 Q. Have you seen shielded foot switches
16 that have neither -- that do not have the toe
17 latch ever being ridden?

18 MR. ROBINSON: I'll object to the
19 form. I don't know how you're referring to
20 "shielded," Mr. Hartman.

21 Q. Sir, do you know what a shielded
22 foot switch is?

23 A. I believe I understand you mean the
24 type of foot switch that has the covered hood on

1 both top and two sides.

2 Q. Correct.

3 A. It's difficult for me to answer that
4 question because, when a foot switch is being
5 ridden, I cannot see the front of the foot switch
6 where the operator's toe is to determine whether
7 there's a toe release in there or not.

8 Q. Okay.

9 A. So unless I come back and see the
10 foot switch without the foot in the foot switch, I
11 can't really make that determination.

12 Q. Did you keep any statistics as to
13 what type of foot switches were being ridden --
14 foot controls were being ridden more than other
15 types of foot controls?

16 A. No, I recorded no data.

17 Q. Okay. Do you have a mental
18 impression today as to what type of foot controls
19 were being ridden more often than others?

20 MR. ROBINSON: Objection to the
21 form.

22 A. More often than others, yes.

23 Q. And what's your opinion today?

24 A. The dual-action type of foot

1 controls tend to be ridden more often than not.

2 Q. What's a dual-action type of --

3 A. Either the flap or the toe release
4 where you have to push up, push up on a flap or
5 push in on a toe release before you can depress
6 the actuating treadle in a downward motion.

7 Q. How many? Compare the numbers for
8 me.

9 A. What do you mean, compare the
10 numbers?

11 Q. Well, what percentage of individuals
12 riding the foot pedal were utilizing a shielded
13 foot control without a gate and what were using
14 the shielded foot control with a toe latch and
15 which ones were using the shielded foot control
16 with a toe latch and a gate?

17 MR. ROBINSON: Objection to the
18 form of the question.

19 A. Well, let me try to respond this
20 way, and it's about as specific as I can get. I
21 have seen foot switches with gates being ridden.
22 I've seen foot switches with toe releases being
23 ridden, and I'm sure I've seen foot switches
24 without toe releases being ridden. I have seen

1 foot switches with gates tied up out of the way to
2 take them completely out of the picture.

3 I have seen foot switches with toe
4 releases with the springs detached or tied back to
5 take them completely out of the picture. So both
6 of those are just like shielded foot switches with
7 no HOOD or no toe release. And I've seen that
8 probably in an even mix across the board of the
9 misuse of those types of switches over the 30
10 years that I've been walking factory floors.

11 Q. Would you agree, sir, that since
12 Cincinnati included gated foot switches with their
13 machines since the early '70s, that a majority of
14 your exposure in that 30 years of employment with
15 Cincinnati would have been to gated foot switches,
16 foot controls?

17 A. No.

18 Q. It is not?

19 A. No.

20 Q. Is that because you were exposed to
21 Cincinnati machines manufactured prior to their
22 inclusion of the gated foot control?

23 A. Well, that as well as being exposed
24 to manufacturing facilities that didn't buy just

1 Cincinnati press brakes, they bought other
2 manufacturers' press brakes that used ungated foot
3 switches or the toe-release type Linemaster foot
4 switches or the gated foot switches by Linemaster
5 or Square D or Allen Bradley.

6 Q. Did you rely upon Professor
7 Barnett's research as to the increased incidence
8 of riding the pedal on certain types of foot
9 controls?

10 A. Rely upon it relative to this --

11 Q. Case.

12 A. -- case or rely upon it relative to
13 what I would talk to people about during the, you
14 know, '80s and '90s?

15 Q. Rely upon it as it relates to this
16 case.

17 A. It had -- Relied upon? It had a
18 somewhat of input into my conclusions, but I can't
19 really say that I relied upon it.

20 Q. Did you agree with the findings in
21 his report as it relates to the increase in riding
22 the foot pedal as it relates to certain types of
23 foot controls?

24 A. Yes.

1 Q. Did you find fault with any of
2 Professor Barnett's analysis in that article?

3 A. In some of his conclusions, I don't
4 completely agree; others, I can understand what
5 he's saying and agree.

6 Q. What conclusions do you disagree
7 with?

8 A. Oh, we'll have to go look through
9 each one of them.

10 Q. Okay. We're here, let's grab the
11 article and let's look at it.

12 MR. ROBINSON: Take a break now and
13 change the tape.

14 MR. HARTMAN: Take a break.

15 THE VIDEOGRAPHER: One second,
16 we're going off the record. We're off.

17 (Brief recess.)

18 THE VIDEOGRAPHER: Tape no. 2,
19 you're back on the record.

20 BY MR. HARTMAN:

21 Q. Sir, I believe you're reading the
22 Triodyne Safety Brief, "Foot Controls: Riding the
23 Pedal"?

24 A. That's correct.

1 Q. Okay. Is there any information in
2 that article that you disagree with?

3 A. Probably the better characterization
4 is, rather than disagree, is I dislike some of his
5 terms, like finger on the trigger and stuff like
6 that, little things.

7 He makes a comment here that: It is
8 a universal admonition in machine design that
9 controls be fashioned to minimize the probability
10 of accidental activation. Tripping is the worry
11 when foot controls are employed because operators
12 seldom scrutinize the floor surface when they're
13 working.

14 And I disagree with that, especially
15 people, operators, who are operating press brakes
16 because of the need to move around in front of the
17 machine and load parts and remove parts and that
18 type of thing and be able to move around as the
19 part is being formed, for the most part, my
20 experience, the people who are operating press
21 brakes are acutely aware of what's on the floor
22 around them.

23 Q. So basically, you're disagreeing
24 with the regard to press brakes in that tripping

1 is not an issue as causing accidental or
2 inadvertent activation because there's so much
3 movement in front of the press brake by the
4 operator?

5 MR. ROBINSON: Object to the form
6 of the question.

7 A. Well, I think the term "tripping"
8 here is physically tripping over a cord.

9 Q. I believe so too.

10 A. And not -- You know, and the cords
11 that are used, more often than not, are special
12 electrical wires that are flexible and designed to
13 lay flat and not curl as one of the requirements
14 for the electrical cords on foot-type controls,
15 and when those types of wires are utilized,
16 there's minimal tripping hazard. I just don't
17 agree with him there.

18 Q. So you don't agree with him, his
19 statement that tripping is a --

20 A. Is a worry when foot controls are
21 incorporated any more than tripping is a concern
22 for any reason --

23 Q. Okay.

24 A. -- material laying on the floor,

1 pallets laying on the floor, that type of thing.

2 Q. What is it about the operation of a
3 press brake that makes you believe tripping is not
4 a hazard? I'm asking about the operation of the
5 press brake and movement around the press brake as
6 opposed to the cord itself.

7 MR. ROBINSON: Objection to the
8 form.

9 A. (Shaking head.) Well, my suggestion
10 is that tripping from the cord presenting a
11 tripping hazard is not a major concern because
12 operators are aware of where things are in front
13 of the press brake because of what they need to do
14 in order to operate and perform a particular
15 function.

16 Q. What does an operator need to do in
17 front of a press brake in order to do a particular
18 function?

19 MR. ROBINSON: Objection to the
20 form.

21 A. It is determined by the job that's
22 being done, where the raw material is positioned,
23 where the finished product is positioned, what
24 actions the operator has to go through in order to

1 move the blank piece from one location to the
2 point of operation and then take it from the point
3 of operation to the next location, if there's two
4 people involved, if palm button controls are used,
5 where those controls are positioned, if a foot
6 control is used, where that control is located,
7 the operator is aware of all of that.

8 Q. Okay. What else -- Is there
9 anything else with regard to Professor Barnett's
10 article, "Foot Controls, Riding the Pedals," that
11 you dispute or take issue with?

12 A. In this one I don't see anything
13 that jumps off the page with me. I didn't mark it
14 for that particular situation. Nothing else.

15 Q. Okay. Do you agree with the
16 conclusions Professor Barnett reached in "Foot
17 Controls: Riding the Pedal"?

18 MR. ROBINSON: Object to the form
19 of the question.

20 A. In general, I have no problem with
21 his conclusions.

22 Q. And, specifically, do you have any
23 problem with his conclusions?

24 A. No.

1 Q. I'd like to refer your attention to
2 "Foot Control Activation, Reciprocating Versus
3 Pivoting," which has been cited in your paper.
4 That's the other paper Professor Barnett did.

5 Did you rely upon any of the
6 information contained in the Triodyne Safety Brief
7 "Foot Control Activation, Reciprocating Versus
8 Pivoting" in formulating your opinions in this
9 case?

10 A. There's general information in here
11 that essentially I agree with that has a bearing
12 on some of my opinions, but to say that I relied
13 upon this document specifically for something that
14 is contained in my report would be improper.

15 Q. Okay. What information is in that
16 article?

17 A. An example here, on the last page --
18 or it's on page 4 actually, not page 5, Bullet F:
19 When hand-steadiness is important, riding the
20 pedal and hold down release are far and away the
21 most efficient activation strategies for foot
22 controls. As a consequence, the motivation is
23 enormous for abandoning the safer pivoting or
24 reciprocating activating methods.

1 That I think is an important comment
2 based upon the facts that we know were in place or
3 that we suppose were in place when Ms. Lindquist
4 was injured.

5 Q. What facts are important to you as
6 it relates to that passage that you've read?

7 A. What Ms. Lindquist was doing at the
8 time, I understand, was hand forming a part on a
9 mandrel, which was located on the bed of the press
10 brake, which required her hands to be involved in
11 that. I consider, you know, hand-steadiness and
12 the use of the hands to actually form the part or
13 preform the part applicable to this particular
14 paragraph, and her concentration is there and not
15 on what her foot is doing in the foot switch.

16 Q. Well, you say "in the foot switch."
17 Do you have any evidence that indicates that at
18 the time of this accident Ms. Linquist's foot was
19 in the foot switch at the time that she was
20 injured?

21 A. I reviewed testimony of several
22 Corry Manufacturing individuals who made that
23 conclusion after they came to the press brake
24 subsequent to the occurrence and inspected it and

1 verified that it was operating properly in all
2 respects and the only way that the machine could
3 have cycled is if Ms. Lindquist depressed the foot
4 switch.

5 Q. Do you agree with the conclusion --
6 Strike that.

7 Do you agree with the statement that
8 the only way this machine could have cycled is by
9 activation of the foot switch?

10 A. Yes, I do. There's a possibility --
11 or a probability, excuse me, of a phantom cycle,
12 but these machines don't generally phantom cycle
13 without something breaking, and when something
14 breaks, it's generally discovered in an
15 investigation following that breakage and that
16 phantom cycle.

17 Q. You have no evidence that something
18 broke; am I correct?

19 A. Correct.

20 Q. And the only evidence that exists as
21 of this date is that the machine was operating by
22 using a foot control?

23 A. And properly in all respects.

24 Q. And that activation of the foot

1 control was necessary to cause the machine to
2 operate, correct?

3 MR. ROBINSON: I'll object to the
4 form of the question, particularly to the term
5 "necessary."

6 Q. Well, at the time of this accident,
7 the only way to operate the machine was by use of
8 the foot control?

9 MR. ROBINSON: Objection to the
10 form of the question.

11 A. I think there was also a palm button
12 station on the machine that could have been used
13 in lieu of the foot switch.

14 Q. But am I correct that the palm
15 button switch was switched to the foot control
16 method?

17 A. Yes.

18 Q. And am I correct, Ms. Lindquist --
19 the only testimony that exists is Ms. Lindquist
20 didn't know that the two palm button switch was to
21 be used in conjunction with this machine?

22 MR. ROBINSON: I'll object to the
23 form, mischaracterizes testimony.

24 A. I don't recall that to be the

1 testimony.

2 Q. Do you recall anything contrary to
3 that statement?

4 A. That the palm button station was
5 there and available, if it was chosen to be used.

6 Q. Who would have made the choice,
7 according to the testimony you've read?

8 MR. ROBINSON: I'll object to the
9 form of that question.

10 A. I don't remember now if I read
11 deposition testimony about that or if I read that
12 in other documentation, I can't remember
13 specifically where I got that from.

14 Q. Would you agree that a palm button
15 switch -- Strike that.

16 Would you agree that a palm button
17 console would have a supervisory key on it?

18 MR. ROBINSON: Object to the form
19 of the question.

20 A. It may or it may not. My
21 understanding is that this one did.

22 Q. Should it have a supervisory key on
23 it?

24 A. Somewhere involved in the control

1 circuitry, there should be a selector switch that
2 allows that palm button station to be turned on or
3 off.

4 Q. You say "selector switch," but am I
5 correct that a selector switch is to be operated
6 by a supervisory key?

7 MR. ROBINSON: I'll object to the
8 form of the question.

9 A. The standard doesn't require a
10 supervisory key operated-type switch. It just
11 requires supervisory control over the selection.
12 So it can be a regular selector switch that's
13 enabled by a key operated switch somewhere else.

14 Q. But a supervisor is to make that
15 decision as to whether to use the foot control or
16 the two palm button switch?

17 MR. ROBINSON: Pardon me, before
18 there's an answer, I need to have that question
19 read back or restated. I didn't hear it, I'm
20 sorry.

21 (The record was read back by the court reporter.)

22 MR. ROBINSON: Objection to the
23 form.

24 BY MR. HARTMAN:

1 A. That's not necessarily true, no.

2 Q. Is it your testimony today that
3 it's -- that it's appropriate for an operator that
4 is not a set-up person to make the decision as to
5 whether or not to utilize the foot control or the
6 two palm button switch when both are available?

7 MR. ROBINSON: Objection to the
8 form.

9 A. In some organizations, it is
10 appropriate, yes.

11 Q. Do you think it's appropriate?

12 A. Yes, in some organizations that
13 are -- operators are qualified to make that
14 decision.

15 Q. Do you have any evidence that
16 Ms. Lindquist is a qualified operator to make that
17 decision?

18 A. I have no evidence one way or the
19 other.

20 Q. What would qualify an operator to
21 make that decision?

22 A. That would depend upon Corry
23 Manufacturing's policies.

24 Q. Okay. And if Corry Manufacturing

1 did not permit Ms. Lindquist to make that
2 decision, would that -- would you expect her to
3 make a decision contrary to what her employer
4 states?

5 MR. ROBINSON: I'll object to the
6 form of the question.

7 A. I don't know that you can say that
8 if they did not -- to not give her the training or
9 the authority is to suggest that she has a
10 prohibition or she gets a prohibition against
11 using it or making that decision. I don't think
12 the two link together.

13 Q. Would you expect an operator at
14 Corry Manufacturing to be able to make the choice
15 to utilize the foot control versus the two palm
16 button switch?

17 A. At Corry Manufacturing?

18 Q. Yes.

19 A. I can't answer that question. I
20 don't have the information about Corry
21 Manufacturing that I need to make that decision.

22 Q. What information would you need?

23 A. I need to understand better what
24 goes on at Corry Manufacturing.

1 Q. If her supervisors tell her -- told
2 you that it was not appropriate for her to make
3 that decision, would you have any reason to
4 dispute that?

5 MR. ROBINSON: Objection to the
6 form of the question.

7 A. As we sit here today, no.

8 Q. Would you agree that, with
9 Ms. Linquist's acts under the prohibition from her
10 employer to make that choice to not -- Strike
11 that.

12 Do you have an opinion today as to
13 whether or not Ms. Lindquist should have made the
14 independent decision to utilize the two palm
15 button switch versus the foot control?

16 A. Yes.

17 Q. What is your opinion?

18 A. That she should have or Mr. Rooney
19 should have, one of the two of them should have
20 made the selection of palm buttons.

21 Q. I'm asking you about Ms. Lindquist
22 specifically, not Mr. Rooney, because Mr. Rooney
23 has testified that he has set-up experience.
24 Ms. Lindquist has no set-up experience, according

1 to all of the testimony in this case, that you
2 have of all of the depositions.

3 My question, sir, is: Do you have
4 an opinion today as to whether or not
5 Ms. Lindquist should have made an independent
6 decision to utilize the two palm button switch as
7 opposed to the foot control?

8 A. Yes.

9 MR. ROBINSON: Objection, asked and
10 answered, mischaracterizes in the instructions to
11 this witness as to what the prior testimony is and
12 was asked to answer. Let me state that objection.
13 Go ahead, I'm sorry.

14 Q. What is your opinion?

15 A. I think that she should have made
16 that decision.

17 Q. Based on what?

18 A. Based upon a natural recognition of
19 the hazard that she was involved in.

20 Q. Is it your testimony today, sir,
21 that any operator in any plant can make the
22 decision to change the procedure by which the
23 set-up has been made on a press brake?

24 MR. ROBINSON: Objection,

1 argumentive.

2 A. No, that's not what I testified.

3 Q. Is it your opinion today that
4 Ms. Lindquist has the -- should make independent
5 decisions to change the set-up on a press brake to
6 switch from foot control to two palm buttons?

7 MR. ROBINSON: Objection to the
8 form of the question.

9 Q. Switch.

10 A. My opinion is that Ms. Lindquist has
11 the responsibility to herself to either make the
12 change or request a change to be made if she
13 recognizes the hazard that she is exposed to by
14 hand-forming a part around a mandrel that's in the
15 point of operation of the press brake.

16 Q. So are you faulting this accident on
17 Ms. Lindquist?

18 MR. ROBINSON: I'll object to that.

19 Q. Are you placing the fault of this
20 accident on Ms. Lindquist for not using the two
21 palm button switch?

22 MR. ROBINSON: I'll object to the
23 form of the question.

24 A. No.

1 Q. Am I correct that, based on the
2 testimony you've read, that she did everything
3 that she was instructed to do by her employer?

4 MR. ROBINSON: I'll object to the
5 form of the question. You're ignoring the
6 testimony that he just gave.

7 A. Given the information that I have,
8 she utilized what was provided to her, but failed
9 to take the necessary step afterward to ensure her
10 own safety.

11 Q. And that step would have been what?

12 A. To set the foot switch aside, turn
13 on the palm buttons and use them.

14 Q. So is it your testimony today, sir,
15 that the two palm button switch was necessary to
16 be used in conjunction with the Heim press brake
17 to protect Ms. Lindquist from this accident?

18 A. To form this particular part, it
19 would have been appropriate point of operation
20 safeguarding for Ms. Lindquist.

21 Q. Well, with regard to the devices
22 that were there, would you agree, sir, that -- Am
23 I correct that your testimony is, is that the two
24 palm button switch is a necessary component to

1 this set-up in order to protect Ms. Lindquist?

2 MR. ROBINSON: I'll object to the
3 form. I don't know what you mean by "with regard
4 to the devices that were there." As you know, the
5 testimony has been -- isn't limited to that, so I
6 object to the form.

7 Q. Okay. Would you agree that the --
8 Strike that.

9 Would you agree that the two palm
10 button switch was necessary on the day of
11 Ms. Linquist's accident to protect her from the
12 injury she sustained?

13 MR. ROBINSON: I'll object to the
14 form, same objections.

15 A. Yes, I would, given the two types
16 of -- two methods to control that press brake, to
17 control the motion of the ram of that press brake,
18 that being the foot switch or the two palm button
19 control, the two palm button control would have
20 provided her the appropriate safeguarding that she
21 needed from the hazards at the point of operation.

22 Q. Have you ever been involved in an
23 accident involving a two palm button switch and an
24 operator being injured?

1 A. Yes.

2 Q. Am I correct that you can be injured
3 when you're utilizing a two palm button switch as
4 the point of operation safety device?

5 MR. ROBINSON: I'll object to the
6 form.

7 A. I think that a correct
8 representation of what I've witnessed or what I've
9 investigated and learned is that an injury at the
10 point of operation can't take place when two palm
11 button controls are the point of operation
12 safeguarding selected for a particular operation.

13 Q. So it's possible even utilizing a
14 two palm button switch for Ms. Lindquist to have
15 been injured utilizing the press brake,
16 manufacturing the parts that she had -- was using
17 that day?

18 MR. ROBINSON: I'll object to the
19 form. You've now added Tina Linquist's incident.

20 MR. HARTMAN: Right.

21 MR. ROBINSON: No. Previously, you
22 were talking about is it possible, has he ever
23 seen an injury caused by it or when a two palm
24 button was in place. Now you've just thrown in so

1 it is possible that it could have taken place with
2 Tina Lindquist. I just want to make sure that
3 it's not misleading, as it sounds.

4 MR. HARTMAN: It's not misleading.
5 It's absolutely crystal clear that I used Tina
6 Lindquist. There's no, there's no -- It's a
7 different question. The witness has the ability
8 to think and hear my questions, and if he has
9 problems with the questions, he can certainly
10 straighten me out, as he's done on several
11 occasions, specifically when I misstated the
12 number of years.

13 I have no problem in restating
14 anything you ask me to restate, sir.

15 BY MR. HARTMAN:

16 Q. Is it possible that Ms. Lindquist
17 could have been injured performing the same
18 functions she did on the day of the accident with
19 a two palm button switch as the point of operation
20 safety?

21 A. Not injured in the same manner. I
22 can -- Not knowing the stopping ability of this
23 particular machine, how long it takes it to stop,
24 there is the potential for the hand to get off of

1 a palm control and into a hazardous area before
2 the ram has an opportunity to completely stop and
3 result in an injury. That is a very low
4 probability because of the short stroke of this
5 machine being less than -- only 3 inches of total
6 stroke.

7 I doubt seriously if she could have
8 gotten off of a hand control and into a hazardous
9 area fast enough to get herself injured. She
10 certainly could not have gotten both hands in the
11 point of operation if she were using palm button
12 controls to form this particular part.

13 Q. There are situations where people
14 have been injured by secondary activation by a
15 co-employee, though; am I correct?

16 A. That's correct.

17 MR. ROBINSON: Objection,
18 argumentive.

19 A. But that is the scenario most often
20 experienced when palm buttons are used as point of
21 operation safeguarding. It's not the people who
22 are operating the palm buttons, but it's somebody
23 else who is getting hurt.

24 Q. It happens when there is concurrent